



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region IX**  
**75 Hawthorne Street**  
**San Francisco, CA 94105-3901**

**September 28, 2021**

**GENERAL NOTICE LETTER**  
**URGENT LEGAL MATTER**  
**PROMPT REPLY NECESSARY**  
**SENT VIA ELECTRONIC MAIL AND FEDEX**

Robert Anderson, Principal Deputy Solicitor  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240  
[robert.anderson@sol.doi.gov](mailto:robert.anderson@sol.doi.gov)  
(202) 208-4423

Re: General Notice to DOI of Potential Liability for the Tronox Navajo Area Uranium Mine Sites on the Navajo Nation

Dear Mr. Anderson:

Under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq.* ("CERCLA"), commonly known as the federal "Superfund" law, the United States Environmental Protection Agency ("USEPA") is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing contamination that has already occurred. USEPA Region 9 has documented that such a release has occurred at the 54 uranium mine sites that are the subject of the Tronox Bankruptcy Settlements ("Tronox Navajo Area Uranium Mine Sites," "Tronox NAUM Sites" or "Sites"). Under these 2011 and 2014 bankruptcy settlements in the Southern District of New York, USEPA was the recipient of approximately \$900 million in settlement funds ("Tronox Funds") to be spent at or in connection with the mine waste contamination at 34 uranium mine sites on the Navajo Nation in USEPA Region 9 ("R9 Tronox Sites") and 20 uranium mine sites outside the Navajo Nation in New Mexico in USEPA Region 6 ("R6 Tronox Sites").

Based on response work conducted to date, USEPA has concluded that the funds received from the Tronox Bankruptcy Settlements will be insufficient to address the 54 sites, and, as a result, USEPA is providing notice to additional parties, including the United States Department of the Interior ("DOI"), of potential liability for CERCLA response costs at these sites.

USEPA has spent and is considering spending additional public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Tronox NAUM Sites. Based on information presently available to USEPA, USEPA R9 has determined that DOI, through the Bureau of Indian Affairs ("BIA"), as a manager of federal lands upon which these legacy uranium mines are located, may be responsible under CERCLA for costs USEPA has incurred and will

incur in assessing and cleaning up radionuclide and heavy metal contamination at the R9 Tronox Sites on the Navajo Nation.

Please note that USEPA R9 is sending similar letters to two other potentially responsible parties (“PRPs”) for the R9 Tronox Sites, specifically Cyprus Amax Minerals Company and the U.S. Department of Energy, and may send similar letters in the future, if additional PRPs are identified. We encourage DOI to discuss this matter with the other PRPs for the 34 R9 Tronox Sites. The names and addresses of the other PRPs who have received or are receiving notice of potential liability for the Tronox NAUM Mines are included as Enclosure 1 to this letter.

## **Background**

Uranium mining occurred in the Northern Agency of the Navajo Nation and in the Grants Mineral Belt both on and off the Navajo Nation, in both Arizona and in New Mexico, from approximately the 1940’s through the early 1980’s. More than seven million tons of uranium ore were extracted from these mines. The legacy of prospecting, mining and milling operations left radionuclide and heavy metal mine waste widely scattered across private, federal, tribal, and state lands, where it is a continuing source of contamination to the surface soils, surface water and groundwater. USEPA has been assessing the Tronox NAUM Sites and has found levels of hazardous substances that indicate a threat to human health and the environment, pointing to the need for abatement of the risks posed by the uranium mine waste.

## **Explanation of Potential Liability**

Under CERCLA, specifically Sections 106(a) and 107(a), PRPs may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by USEPA in cleaning up a site. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, USEPA believes that DOI may be liable under Section 107(a) of CERCLA with respect to the R9 Tronox Sites, as a current or former owner and/or operator.

To date, USEPA and the Navajo Nation EPA (“NNEPA”) have taken several assessment and response actions at the Sites using Superfund authority. USEPA has documented releases of hazardous substances to soil and surface water. Below is a brief description of some of the actions undertaken at the R9 Tronox Sites.

- Site Screens – providing initial radiological surveys.
- Time-Critical Removal Actions - conducted to reduce any immediate threat to the environment or human health posed by the Sites.
- Removal Site Evaluations – providing detailed site assessment information.
- Engineering Evaluation and Cost Analysis - initiated to evaluate potential response actions.

As referenced above, USEPA has recently determined that the total amount of funding provided by the Tronox Settlements is insufficient to fund cleanups that meet the criteria in CERCLA and the National

Contingency Plan, 40 C.F.R. Part 300, for the 54 Tronox NAUM Sites. As a result, the Tronox Settlements will only provide a percentage of total cleanup costs and the remaining financially viable PRPs will be required to fund the remainder of response costs for each of the Sites.

### **Information to Assist You**

USEPA encourages communication between DOI, other PRPs, and USEPA concerning the R9 Tronox Sites. USEPA encourages each PRP to select one person from its company or organization to be a primary point of contact and represent its interests to USEPA.

To assist you in your efforts to communicate, USEPA is providing the following information:

- A list of names and addresses of PRPs to whom General Notice has been provided for the Region 9 Tronox Sites (Enclosure 1).
- A map showing the Tronox Sites in Regions 6 and 9 (Enclosure 2).
- Documentation linking your agency to the R9 Tronox Mines (Enclosure 3, provided as an external drive via FEDEX).

### **PRP Response and USEPA Contacts**

You are encouraged to contact USEPA following your receipt of this letter to indicate your willingness to participate in negotiations concerning the R9 Tronox Sites, including your willingness to negotiate with other PRPs. Please use the enclosed Primary Contact Designation Form to designate the most appropriate individual to receive all further correspondence on this matter on your behalf. **We request that you email us the completed form within thirty (30) days of your receipt of this letter.**

We will continue to send future correspondence to you until we receive this form. The completed Primary Contact Designation Form should be emailed to both:

Krista Brown, Remedial Project Manager  
U.S. Environmental Protection Agency  
[brown.krista@epa.gov](mailto:brown.krista@epa.gov)

and

Laurie Williams, Assistant Regional Counsel  
U.S. Environmental Protection Agency  
[williams.laurie@epa.gov](mailto:williams.laurie@epa.gov)

### **Conclusion**

Please give these matters your immediate attention. If you have any questions regarding the technical aspects of this letter, please contact Krista Brown at the email address listed above or at (415) 697-8259. If you have legal questions or concerns, please contact Laurie Williams at the email address listed above or (415) 972-3867. In addition, please let us know whether you would be interested in an informational meeting with USEPA to review our CERCLA findings regarding the radiological contamination and to describe our response actions to date.

Thank you for your prompt attention to this matter.

Sincerely,

Will Duncan  
Assistant Director  
Superfund Division  
USEPA Region 9

Enclosures (4):

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- A map showing the Tronox Sites in Regions 6 and 9 (Enclosure 2)
- Documentation linking your agency to the R9 Tronox Mines (Enclosure 3, provided as an external drive via FEDEX).
- Primary Contact Designation Form (Enclosure 4)

cc: **U.S. Department of Justice (DOJ EDS):**  
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